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BROOKLYN OFFICE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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SOIL SOLUTIONS, INC.

Plaintiff,

09-CV-2470 (JBW)

-against-

INJUNCTION AND ORDER

SOIL SOLUTION INDUSTRIES INC., and  
GREGORY DICAPUA,

Defendants.  
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JACK B. WEINSTEIN, Senior District Judge:

For the reasons stated orally on the record, and by written decision,

**ORDERED, ADJUDGED AND DECREED**, that defendants Gregory Decapua and Soilsolution Industries Inc., together with their officers, directors, agents, servants, employees, and all those acting or attempting to act in concert or participation with them, are hereby immediately **ENJOINED AND RESTRAINED** from using or employing, directly or indirectly, the service mark or trademark SOIL SOLUTION, the trade names "Soil Solution Inc." or "Soilsolution Industries Inc." or the internet domain name soilsolutioninc.com or any service mark, trademark, trade name or internet domain name confusingly similar to SOIL "SOLUTIONS", "Soil Solutions, Inc." or soilsolutionsinc.net, including, but not limited to, any designation containing the elements SOIL and SOLUTION, any variants thereof, or any elements visually, aurally or phonetically similar thereto, in connection with the offering or provision of any soil or foundation-related construction services, including but not limited to, soil remediation or handling of contaminated or non-contaminated soil, or maintaining an internet website in connection therewith, and it is further

**ORDERED** that within ten (10) days from the date hereof defendants shall identify to plaintiff's counsel all work performed under the mark SOIL SOLUTION or the trade names Soil Solution Inc. or Soilsolution Industries Inc., the contactor and/or property owner for whom such work was performed and the compensation received therefor; and it is further

**ORDERED** that defendants shall forthwith cease operation of the internet website located at [www.soilsolutionsinc.com](http://www.soilsolutionsinc.com) and immediately destroy all advertising and promotional materials containing the mark SOIL SOLUTION, the trade names Soil Solution Inc. or Soilsolution Industries Inc. or any variants thereof, and all plates, dies, materials or electronic files from which such materials may be reproduced; and it is further

**ORDERED** that, pursuant to Lanham Act § 34, 15 U.S.C. § 1116, defendants are directed to file with the Court and serve on the plaintiff within thirty (30) days after the service on the defendants of this Injunction and Order a report in writing under oath setting forth in detail the manner and form in which the defendants have complied with this Injunction and Order; and it is further


**ORDERED** that plaintiff shall supply a bond for \$10,000 pursuant to Rule 65(c) of the Federal Rules of Civil Procedure; and it is further

**ORDERED** that trial of plaintiff's claims in this action is hereby scheduled for December 7, 2009 at 10:00 a.m.; and it is further

**ORDERED** that, in view of defendants' objection to the consolidation of the preliminary injunction hearing with any later permanent injunction trial, the consolidation is hereby revoked; and it is further

**ORDERED** that, in view of the foregoing determinations, defendants' motion to dismiss or for summary judgment, dated October 7, 2009, and plaintiff's cross-motion for partial summary judgment, dated October 21, 2009, are denied as moot.

SO ORDERED.

  
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Jack B. Weinstein  
Senior Judge, Eastern District of New York

Dated: November 9, 2009  
Brooklyn, New York